

OFFICE OF THE SECRETARY OF DEFENSE

WASHINGTON, DC 20301

Administration
& Management

November 29, 1988

ADMINISTRATIVE INSTRUCTION NO. 17

SUBJECT : Civilian Employee Alcohol and Drug Abuse Prevention, Testing, and Control Program

References: (a) Administrative Instruction No. 17, "Civilian Employee Alcoholism and Drug Abuse Program, " April 23, 1982 (hereby canceled)
(b) Federal Personnel Manual (FPM) 731 and Supplements 792-2 and 293-31, s6
(c) DoD Directive 1010.3, "Drug and Alcohol Abuse Reports , " September 23, 1985
(d) Administrative Instruction No. 8, "Disciplinary and Adverse Actions, " August 17, 1981
(e) through (s), see enclosure 1

A. REISSUANCE AND PURPOSE

This Instruction reissues reference (a), consistent with references (b) through (n), updates DoD policies and responsibilities for the prevention and treatment of alcohol and drug abuse among civilian employees, and prescribes procedures for the implementation of the "Office of the Secretary of Defense/ Organization of the Joint Chiefs of Staff (OSD/OJCS) Drug-Free Workplace Plan" (references (o) through (s)) .

B. APPLICABILITY AND SCOPE

1. This Instruction applies to the Office of the Secretary of Defense (OSD), the Joint Staff, and all other activities receiving administrative support from Washington Headquarters Services (WI-IS) (hereafter referred to collectively as "OSD Components") .

2. Employees of OSD Component activities located outside the Washington metropolitan area shall receive counseling, rehabilitation services, and drug **testing** through their servicing civilian personnel office or under other applicable servicing agreements.

C. DEFINITIONS

Terms used in this Instruction are defined in enclosure 2.

D. DRUG ABUSE PREVENTION , TESTING, AND CONTROL PROGRAM

The OSD and/or Joint Staff policy and procedures on drug abuse prevention, testing, and control, as required by references (o) through (r) , are promulgated by reference (s) , which shall be distributed to all employees covered under this Instruction.

E. POLICY

1. The DoD goal is to be free of the effects of alcohol and drug abuse. Such abuse is incompatible with the maintenance of high standards of performance, the accomplishment of the mission, and readiness. Alcoholism is a progressive, **noncompensable** disease that is both preventable and treatable and that affects the family, health, conduct, and job performance of employees.

2. A drug-free workplace shall be provided for employees with due regard to the rights of the Government, the employee, and the general public. A positive work atmosphere shall be maintained in which drug use by employees is intolerable.

3. Employees are prohibited from possessing, selling, or using **drugs, or** using alcohol other than in accordance with appropriate laws, **regulations,** and Instructions.

4. Counseling shall **be** provided to individuals who abuse alcohol and such individuals shall be referred for treatment or rehabilitation. Individuals who refuse to participate in counseling or refuse to enter or fail to complete successfully a treatment and/or rehabilitation program **shall** be subject to the full range of disciplinary or adverse action, including removal.

5. Drug abusers shall be counseled, disciplined, and/or separated, as appropriate. Referral for treatment and rehabilitation shall be provided for individuals determined to be drug dependent in accordance with appropriate laws, regulations, and Instructions. Individuals who are offered treatment, but refuse or **fail** to successfully complete a treatment and/or rehabilitation program, shall be separated.

6. Continuing education and training shall be provided to managers, supervisors, and employees on DoD policies on drug and alcohol abuse and/or dependency and effective measures to alleviate problems associated with alcohol and drug abuse.

7. Sick leave shall be granted for treatment or rehabilitation, as in any other illness or health problem.

8. An employee's **job** security or promotional opportunities shall not be jeopardized by his or her request for assistance, except as limited by DoD Directive 1010.9 (reference (q)), relating to sensitive positions.

9. Management shall enlist the active support of labor organizations, **as** key elements **to** the success of the alcohol and drug abuse program.

10. The confidential nature of medical records of employees undergoing counseling and treatment shall be preserved in accordance with applicable laws and regulations.

F. RESPONSIBILITIES

1. The Heads of OSD Components, or their designees, shall ensure that all personnel within their organization are aware of this Instruction and the Presidential initiatives on a drug-free workplace.

2. The Director, Washington Headquarters Services (WHS), shall:

a. Be the DoD Component Head for employees covered by the "OSD/OJCS Drug-Free Workplace Plan" (reference (s)).

b. In accordance with DoD Directive 1010.9 (reference (q)), enter into a Memorandum of Understanding (MOU) with the Department of the Army to provide the following:

(1) The services of a Medical-Review Officer (MRO).

(2) Professionally trained personnel to process specimens-for laboratory testing.

(3) Testing of specimens at a DoD certified Forensic Toxicology Drug Testing Laboratory (FTDTL).

(4) Chain of custody procedures on all-specimens.

(5) Confidentiality of all testing results.

3. The Director, Personnel and Security (P&S), Washington Headquarters Services (WHS), shall:

a. Coordinate applicable aspects of the program with supervisors, civilian medical authorities, the Pentagon Employee Referral Service (PERS), and local community resources.

b. Coordinate training programs with PERS for:

(1) Supervisors to assist them in identifying and addressing drug and alcohol abuse by employees.

(2) Educational programs for employees on the control and prevention of alcohol and drug abuse.

(3) Ensuring that educational material on alcohol and drug abuse is available to all personnel.

c. Compile sufficient statistical data to provide the basis for evaluating and reporting program results and effectiveness to the Office of Personnel Management (OPM), as required by FPM Supplement 792-2 (reference (b)), and to the Assistant Secretary of Defense (Health Affairs) (ASD(HA)), as required by DoD Directive 1010.3 (reference (c)), the Congress, and the Department of Health and Human Services (HHS), in accordance with Section 503(f) of P.L. 100-71 (reference (r)).

d. Provide advice and assistance to supervisors on proposed adverse or disciplinary actions when drug or alcohol abuse may be involved.

e. Coordinate with union representatives on program policy formulation to ensure the cooperation and support of labor organizations and maintain open lines of communication with union leaders.

4. The Managers and Supervisors shall:

- a. Support the program and be alert to adverse changes in work patterns and behavior of assigned employees.
- b. Document specific instances when an employee's work performance, behavior, or attendance fails to meet minimum standards or when the employee's pattern of performance appears to be deteriorating.
- c. Consult with the servicing civilian personnel office, the **PERS**, or medical personnel for advice on the employee's problem.
- d. Refer employees who are alcohol or drug abusers to the **PERS** for counseling and rehabilitation assistance.

5. The Employees shall:

- a. Recognize the **adverse effects that** alcohol or drug abuse has on job performance, the mission of the OSD and/or Joint Staff, public health and safety, and national security.
- b. Seek assistance in counseling and rehabilitation by requesting help from the **PERS**.
- c. Keep their job performance at an acceptable level and comply with all work-related policies.
- d. Refrain from using illegal drugs and/or abusing alcohol.

6. The Civilian Employees' Health Service (CEHS) shall:

- a. Provide professional medical advice to employees having an alcohol or drug abuse problem.
- b. Provide advice to supervisors.
- c. Conduct physical examinations at the request of the Director, P&S, WHS, or the Civilian Personnel Officer, Joint Staff.

7. The Pentagon Employee Referral Service (PERS) shall:

- a. Provide counseling and assistance to employees and monitor the employees' progress throughout treatment and rehabilitation.
- b. Provide training to supervisors and employees **on** alcohol and drug abuse.
- c. Provide other services, as described in the "OSD/OJCS Drug-Free Workplace Plan" (reference (s)).

G. PROCEDURES

1. The alcohol and drug abuse program supplements existing procedures for dealing with problem employees, as follows:

a. The supervisor identifies the aspects of the job performance or conduct that are not satisfactory, consults with personnel or counseling staff or both, discusses aspects of below-standard performance with the employee, and advises the employee of the availability of counseling assistance.

b. The supervisor conducts a subsequent interview if performance, behavior, or attendance does not improve. The employee shall be provided with the choice of either accepting assistance through professional diagnosis and counseling of the problem, or accepting the consequences for continued unsatisfactory job performance or conduct.

c. If the **employee** refuses to seek counseling and there is inadequate or no improvement in performance or conduct, then appropriate remedial (i.e., disciplinary or adverse) action shall be taken. If the problem appears to be drug abuse, refer to the "OSD/OJCS Drug-Free Workplace Plan" (reference (s)).

d. The length of rehabilitation programs may vary with each employee. However, they generally are not expected to exceed 1 year. If the employee does not meet a satisfactory level of job performance, including conduct and attendance after a rehabilitation period, appropriate remedial action **shall be** taken with the advice and assistance of the Director, P&S, WHS, or the Civilian **Personnel** Officer, Joint Staff. Organizational entities are not responsible for the costs of treating an employee's alcohol or drug problem. Employees shall be allowed up to 1 hour ("or more, as necessitated by travel time) of excused absence for counseling sessions and an additional reasonable amount of time, depending on the circumstances to be determined by the PERS, during the assessment and/or referral phase of rehabilitation. The employee may receive financial-help, as with other illnesses, from his or her Federal Employees Health Benefits Plan.

e. Any action to discipline or begin adverse action proceedings against an employee who is abusing alcohol or using illegal drugs shall be taken in compliance with **A.I.** No. 8 (reference (d)).

2. Under 42 **U.S.C.** Chapter 1 (reference (h)) "no person may be denied or deprived of Federal civilian employment or a Federal professional or other license or right solely on the ground of prior drug abuse." In accordance with reference (s), the term "prior drug abuse" excludes any individual from employment who has obtained a verified positive test result within any preceding 6-month period. Such person shall be provided an opportunity to demonstrate to the **MRO** that he or she no **longer** suffers from current drug abuse. If the **MRO** determines that **the** individual is no longer suffering from current drug abuse, based on records made available by the individual, the **MRO** shall certify to the servicing personnel office that the individual is not a current drug abuser and under **290ee-1(b)(1)** of reference (h) should not be denied or deprived of employment solely because of his or her prior drug use.

3. Additionally, applicants for testing-designated positions (TDPs) shall be subject to urinalysis testing to determine if they are drug free in accordance with the "OSD/OJCS Drug-Free Workplace Plan" (reference (s)). A candidate tentatively selected for a TDP, who tests positive for drugs, shall be denied employment.

4. Except as stated in paragraph G.I.e., above, applicants for employment who have a history of alcohol or drug abuse may be considered if they are determined good employment risks. In those cases, the length of time since the last abuse of alcohol or drugs is less important than the steps taken by the applicant to secure treatment of his or her illness through medical care, rehabilitation, or similar actions.

H. CONFIDENTIALITY OF CLIENT RECORDS

1. An employee serving in an Equal Employment Opportunity (EEO) capacity as a special emphasis program manager (SEPM) or selective placement coordinator, who is advised by an employee of his or her alcohol or drug abuse problem, shall:

a. Refer the employee immediately to designated, personnel for counseling on his or her alcohol or drug abuse problem.

b. Release alcohol or drug-related information on the employee only on his or her written permission and only in accordance with laws and regulations.

c. Adhere to the confidentiality requirements in paragraph H.1.b., above, **which** include protection of the employee's identity.

2. Alcohol and "drug abuse treatment records may be disclosed without the prior written consent of the patient, only as follows:

a. To medical personnel for the extent necessary to meet a genuine medical emergency.

b. To the OSD Component **MRO**.

c." To the administrator of an Employee Assistance Program (EAP) in which the employee is receiving counseling or treatment, or is otherwise participating.

d. To qualified **personnel** for conducting scientific research, management audits, financial audits, or program evaluation, with **all** identifying information removed from the data.

e. Under the order of a court of competent jurisdiction, when required by the U.S. Government to defend against any challenge to an adverse personnel action.

3. Results of a positive drug test only shall be disclosed to the OSD Component **MRO** in accordance with reference (s).

I. RECORDS MAINTENANCE

1. General supervisory documentation of employee job performance and actions taken to motivate correction of job deficiencies shall be maintained confidentially in the supervisor's work folder.

2. Official **personnel** folders shall not include information on an employee's alcohol or drug abuse problem or efforts to rehabilitate the employee, except as they apply to specific charges leading to disciplinary or separation actions.

3. In accordance with A.I. No. 81 (reference (g)), medical records on alcohol and drug abuse shall be disclosed to the individual to whom they pertain, unless a determination is made in consultation with a physician that the disclosure could have an adverse effect on the individual's physical or mental health. In that case, this information may be transmitted to a physician named by the individual concerned.

4. All records **generated** on an **employee's** alcohol or drug abuse problem shall be maintained consistent with reference (g), 42 U.S.C.. Chapter 1 (reference (h)), and all other applicable Federal laws, rules, and regulations on confidentiality of records.

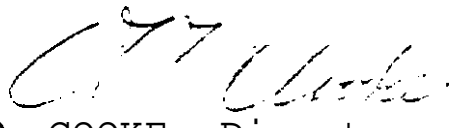
5. Employee assistance and/or counseling records on personal problems or drug and/or alcohol abuse problems, when an employee formally enters **into** such a program, shall not be maintained in the employee medical file (EMT). **Formal** counseling records may be included in the **EMF** only with the consent of the employee.

6. Drug testing records under E.O. 12564 (reference (o)) are considered temporary and shall be removed from the **EMF** and destroyed when the employee transfers to another Agency, or when the **EMF** is sent to the **National Personnel Records Center (NPRC)** on retirement or separation. The following records shall be maintained by the Drug Program Coordinator (**DPC**):

- a. Lists of employees to be tested.
- b. Those employees who report or fail to report for testing.
- c. Those employees with confirmed positive test results released by the **MRO**.
- d. All other administrative records on the drug testing program.

J. EFFECTIVE DATE

This Instruction is effective immediately.


D.O. COOKE, Director

Administration and Management

Enclosures - 2

1. References
2. Definitions

REFERENCES, continued

- (e) Title 5, United States Code, Sections 7103, 8331, and 8401
- (f) Title 21, United States Code, Chapter 13, Section 802(6)
- (g)** Administrative Instruction No. 81, "Privacy Program," **January 13, 1986**
- (h) Title 42, United States Code, Chapter 1, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records," and **290ee-1(b)(1)**
- (i) Title 5, Code of Federal Regulations, Part 293, Subpart E - Employee Medical File System Records
- (j)** DoD Instruction 6055.5, "Industrial Hygiene and Occupational Health," April 30, 1980
- (k) Public Law 91-513, "Controlled Substances Act," October 27, 1970 (21 U.S.C. S202, 802(6), and 812)
- (l)** Executive Order 12356, "National Security Information," April 2, 1982
- (m) Executive Order 10450, as amended, "security Requirements for Government Employment," April 27, 1953
- (n) DoD Directive 1010.6, - "Rehabilitation and Referral Services for Alcohol and Drug Abusers," March 13, 1985
- (o) Executive Order 12564, "Drug-Free Federal Workplace," September 15, 1986
- (p) Federal Personnel Manual (FPM) Letter 792-16, "Establishing a Drug-Free Federal Workplace, ." November 28, 1986
- (q)** DoD Directive 1010.9, "DoD Drug Abuse Testing Program," August 23, 1988
- (r) Public Law 100-71, "Supplemental Appropriation Act of 1987," Section 503, **July 1987**
- (s) "Office of Secretary of Defense/Organization of the Joint Chiefs of Staff (OSD/OJCS) Drug-Free Workplace Plan," October 13, 1987

DEFINITIONS

1. Alcohol Abuse. The non-dependent use of alcohol to an extent that it has an adverse effect on the user's health or behavior, family, community, or the Department of Defense.
2. Alcohol Dependence and/or Alcoholism. Psychological and/or physiological reliance on alcohol.
3. Applicant. Any individual tentatively selected for a testing-designated position with the OSD or the Joint Staff.
4. Drug Abuse. The use or possession of illegal drugs or the **nonmedical** use of prescription or over-the-counter drugs.
5. Drug Dependence. Psychological and/or physiological reliance on a psychoactive drug.
6. Employee Assistance and Counseling Record. The record created when an employee formally enters and participates in the Agency EAP for drug or alcohol abuse or personal counseling.
7. Employee Assistance Program (EAP). The counseling program that offers assessment, short-term counseling, and referral services to OSD Component employees for a wide range of drug, alcohol, and mental health problems, and monitors the progress of employees while in treatment.
8. Employee Medical Folder (EMF). A separate file folder (**SF-66D**, or equivalent) that contains all medical records designated for long-term retention, which accompanies the employee during his or her Federal career, and which is stored on separation along with the Official **Personnel Folder (OPF)** at the NPRC.
9. Employees in Sensitive Positions
 - a. Employees in positions designated by an OSD Component Head as Special Sensitive, Critical Sensitive, or Noncritical-Sensitive under Chapter 731 of the FPM (reference (b)).
 - b. Employees in positions designated by an OSD Component Head as sensitive in accordance with **E.O.** 10450 (reference (m)).
 - c. Employees granted access to classified information or who may be granted access to classified information under a determination of trustworthiness by the OSD Component Head under Section 4 of **E.O.** 12356 (reference (1)).
 - d. Law enforcement officers, as defined in 5 **U.S.C.** 8331(20) and 8401(17) (**reference** (e)).
 - e. Other positions that the OSD Component Head determines involve law enforcement, national security, the protection of life and property, public health or safety, or other functions requiring a high degree of trust and confidence.

10. Illegal Drugs. A controlled substance included in Schedule I or II, as defined by 21 U.S.C. 8(?2(6) (reference (f))), the possession of which is unlawful under Chapter 13 of reference (f). The term "illegal drugs" does not mean the use of a controlled substance under a valid prescription or other uses authorized by law.

11. Management Official. An employee required or authorized by the OSD or the Joint Staff to formulate, determine, or influence the policies of the OSD or the Joint Staff under 5 U.S.C. 7103(a)(11) (reference (e)).

12. Medical Review Officer (MRO). The individual responsible for receiving laboratory results generated from the "OSD/OJCS Drug-Free Workplace Plan" (reference (s)) who is a licensed physician with knowledge of substance abuse disorders and the appropriate medical training to interpret and evaluate all positive test results together with an individual's medical history and any other relevant biomedical information.

13. Selective Placement Coordinator. An individual, usually on the staff of the civilian personnel office, who is directly involved with the recruitment, placement, follow-up, counseling, and career development of handicapped individuals, including disabled veterans.

14. Special Emphasis Program Manager (SEPM). Employee with a collateral duty to manage a program established as an integral part of the overall EEO program to enhance the employment, training, and advancement of a particular minority group, women, **or** handicapped persons.

15. Supervisor. An employee having authority to hire, direct, assign, promote, reward, transfer, furlough, layoff, recall, suspend, discipline, or remove other employees; to adjust their grievances; or to effectively recommend such action if the exercise of the authority is not merely routine or clerical in nature, but requires the consistent exercise of independent judgement Section 7103(a)(10) of reference (e).

16. Testing-Designated Positions. Those positions described in Section 7(d) of E.O. 12564 (reference (o)) that are designated under reference (s) as subject to random drug testing of the incumbent. The positions are characterized by their critical safety or security responsibilities, as they relate to the mission of the OSD Component. The job functions associated with those positions have a direct and immediate impact on public health and safety, the protection of life and property, law enforcement, or national security. Those positions require the highest degree of trust and confidence.